

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

**THOMAS L. JACKSON v. CHERRY LINDAMOOD, WARDEN**

**Appeal from the Circuit Court for Wayne County  
No. 14212 Robert L. Holloway, Judge**

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**No. M2007-01567-CCA-R3-HC - Filed March 4, 2008**

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This matter is before the Court upon the State's motion to affirm the judgment of the habeas court by memorandum opinion pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. The Petitioner has appealed the habeas court's order dismissing the petition for writ of habeas corpus. Upon a review of the record in this case, we are persuaded that the habeas court was correct in dismissing the habeas corpus petition and that this case meets the criteria for affirmance pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. Accordingly, the State's motion is granted and the judgment of the habeas corpus court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed  
Pursuant to Rule 20, Rule of the Court of Criminal Appeals**

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which DAVID H. WELLES and JERRY L. SMITH, JJ., joined.

Thomas L. Jackson, Clifton, Tennessee, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Renee W. Turner, Assistant Attorney General; for the Appellee, State of Tennessee.

**MEMORANDUM OPINION**

The Petitioner is currently incarcerated serving a fifteen-year sentence as a career offender for possessing contraband in a penal institution. The Petitioner has submitted this petition for a writ of habeas corpus claiming his sentence is illegal because the trial court incorrectly and illegally sentenced him as a career offender. The Petitioner claims that he has only four prior felony convictions, which would not provide a basis for the trial court to sentence him as a career offender. The Petitioner also alleges the indictment was void and defective because it did not allege the elements of intent or possession. At the habeas court, the State argued the Petitioner did not comply

with the habeas corpus procedural requirements because he did not attach to his petition the indictment, the transcript of the sentencing hearing, or copies of his prior convictions. Finding the State's argument well taken, the trial court summarily denied the petition.

In Tennessee, “[a]ny person imprisoned or restrained of his liberty, under any pretense whatsoever, except [those held under federal authority], may prosecute a writ of habeas corpus to inquire into the cause of such imprisonment and restraint.” *Church v. State*, 987 S.W.2d 855, 857 (Tenn. Crim. App. 1998) (citing *State ex rel. Newsom v. Henderson*, 424 S.W.2d 186, 189 (Tenn. 1968)). A writ of habeas corpus may be granted only when the petitioner has established lack of jurisdiction for the order of confinement or that he is otherwise entitled to immediate release because of the expiration of his sentence. See *Ussery v. Avery*, 432 S.W.2d 656 (Tenn. 1968); *State ex rel. Wade v. Norvell*, 443 S.W.2d 839 (Tenn. Crim. App. 1969). The burden is on the Petitioner to establish that the judgment is void or that the sentence has expired. *State ex rel. Kuntz v. Bomar*, 381 S.W.2d 290, 291-91 (Tenn. 1964). A “habeas corpus petition may be dismissed without a hearing, and without the appointment of counsel for a hearing” if the petition does not allege facts showing the Petitioner is entitled to relief. *State ex rel. Edmondson v. Henderson*, 421 S.W.2d 635, 636 (Tenn. 1967) (citing *State ex rel. Byrd v. Bomar*, 381 S.W.2d 280 (Tenn. 1964)).

Upon review of the petition for habeas corpus relief, we agree with the State. The Petitioner has not attached his indictment, copies of his prior convictions, or a transcript of his sentencing hearing. “[S]ummary dismissal may be proper when . . . the petitioner fails to attach to the habeas corpus petition pertinent documents from the record of the underlying proceedings to support his factual assertions.” *Summers v. State*, 212 S.W.3d 251, 254 (Tenn. 2007). The Petitioner attached his judgment of conviction, but without the indictment, copies of his prior convictions, and a transcript of the sentencing hearing, we cannot properly review the Petitioner's claims.

After due consideration of the pleadings, the record, and the applicable law, the court concludes that the Petitioner has not established that he is entitled to habeas corpus relief based on a void judgment. Accordingly, the State's motion is granted. The judgment of the trial court is affirmed in accordance to Rule 20, Rule of the Court of Criminal Appeals.

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ROBERT W. WEDEMEYER, JUDGE